UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/369,803	08/06/1999	MARK CHRISTOPHER TONKIN	AD-6643	7271

7590 02/26/2002

WILLIAM H HAMBY
E I DU PONT DE NEMOURS AND COMPANY
LEGAL-PATENTS
1007 MARKET STREET
WILMINGTON, DE 19898

EXAMINER	
BUSHEY, CHARLES S	
ART UNIT	PAPER NUMBER
1724	11

DATE MAILED: 02/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-11

Office Action Summary	Application No. 09/369,803	Applicant(s) TONKIN ET AL.	
	Examiner Scott Bushey	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 January 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3,6,11 and 15-35* is/are pending in the application.

4a) Of the above claim(s) *15-21* is/are withdrawn from consideration.

5)☒ Claim(s) *3,6 and 11* is/are allowed.

6)☒ Claim(s) *22,23,25,26,28-31 and 33-35* is/are rejected.

7)☒ Claim(s) *24,27 and 32* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 January 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *1 sht* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

1. This application contains claims 15-21 drawn to an invention nonelected with traverse in Paper No. 6 (paragraph 4 of the Detailed Action). A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 22, 23, 25, and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by McElroy et al (Figs. 1 and 2; abstract; col. 1, lines 58-60; col. 2, lines 42-55).

With respect to instant claims 25 and 26, the recitation of "an engine" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 28-31, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElroy et al taken together with Robinson.

McElroy et al as applied to claims 22, 23, 25, and 26 above, substantially discloses applicant's invention as recited by instant claims 28-31, 33, and 34, except for recitation that the humidification device is within a motorized vehicle that includes an engine, as recited by instant claims 30, 31, 33, and 34, and the heat from the engine exhaust being used to preheat the water prior to contact with the incoming intake air, the flow of the exhaust gases being controlled by a temperature sensing element.

Robinson (Fig. 1; col. 3, lines 13-21) teaches the well known use of the heat from engine exhaust gases to preheat water (23) within a reservoir prior to contact of the water vapor with

intake air to humidify the intake air prior to its passage to a carburetor (16), the flow of the exhaust gases through the heat exchange coil (44) within the water reservoir being controlled by a temperature sensor (47) that controls valve (46) in the exhaust line. It would have been obvious for an artisan at the time of the invention, to provide the air humidifying device as taught by McElroy et al, as applied to claims 22, 23, 25, and 26 above, with water preheating means that uses heat from the engine exhaust, in view of Robinson, since such would efficiently provide a saturated air intake stream using available waste heat, while also cooling the engine exhaust prior to its release to the atmosphere, thereby reducing thermal pollution.

7. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference combination as applied to claims 28-31, 33, and 34 above, and further in view of Japan 61-216701.

The reference combination as applied to claims 28-31, 33, and 34 above, substantially suggests applicant's invention as recited by instant claim 35, except for the provision of a hydrophilic membrane to remove water from the fuel in a fuel tank associated with a motorized vehicle engine.

Japan 61-216701 (English Abstract; Figs. 1 and 2) discloses providing a hydrophilic membrane in conjunction with a fuel tank to remove water from the fuel in the fuel tank associated with a motorized vehicle engine prior to feeding the fuel to the engine. I it would have been obvious for an artisan at the time of the invention, to provide the primary reference combination with a fuel filter of the type disclosed by the Japanese reference, since such would reduce engine damage due to excessive water reaching the combustion chamber of the engine.

Allowable Subject Matter

8. Claims 3, 6, and 11 are allowed for the reasons of record.

9. Claims 24, 27, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The claims would be allowable for the same reasons as pertain to allowed claims 3, 6, and 11.

Response to Arguments

10. Applicant's arguments with respect to claims 22, 23, 25, 26, 28-31, and 33-35 have been considered but are moot in view of the new grounds of rejection.

Conclusion

11. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (703) 308-3581. The examiner can normally be reached on Monday-Thursday 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Simmons can be reached on (703) 308-1972. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Scott Bushey
Primary Examiner
Art Unit 1724

csb
February 21, 2002

2-21-02